

RECEIVED AND FILED
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N.J. BOARD OF DENTISTRY
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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY

IN THE MATTER OF :

MICHAEL B. COHEN, D.D.S. :
License No. DI 11438 :

CONSENT ORDER

LICENSED TO PRACTICE DENTISTRY: :
IN THE STATE OF NEW JERSEY :
:

CERTIFIED TRUE COPY

This matter was opened to the New Jersey State Board of Dentistry ("Board") upon receipt of information from the New Jersey Department of Banking and Insurance, Division of Insurance Fraud Prevention ("Department of Insurance") indicating that respondent Michael B. Cohen, D.M.D. ("respondent") entered into a consent agreement with the Department of Insurance with regard to various dental claims submitted to Delta Dental Plan of N.J., Inc., and paid a civil penalty in the amount of \$5,000.00.

The Board's review of the patient records and other documentation revealed repeated instances of submissions of insurance claim forms by respondent involving nine (9) patients which contained one or more of the following: (1) billing for dental services or procedures which did not accurately reflect the actual work completed; (2) billing for services not performed; (3)

billing for services not documented in the patient charts; and (4) billing for treatment dates which did not accurately reflect the dates when the services or procedure was actually completed. These actions, if proven, would constitute violations of N.J.S.A. 45:1-21(b), (e), and (h). Respondent, through his counsel, Gordon J. Golum, Esq. (Wilentz, Goldman & Spitzer), by way of mitigation, has provided information to the Board setting forth his explanation for the conduct and his efforts to correct office procedures that permitted the submission of inaccurate insurance claims.

The parties have now agreed to resolve this matter without recourse to formal proceedings, and without an admission of liability or wrongdoing on the part of the respondent, and for good cause shown,

IT IS on this 17 day of ^{AUGUST}~~July~~, 1999,

ORDERED and agreed that:

1. The respondent is hereby suspended from the practice of dentistry in the State of New Jersey for a period of one (1) year, all but forty five (45) days of this suspension shall be stayed and become a period of probation. The forty five (45) day period of active suspension shall commence thirty (30) days after the entry date of this Order. During the period of active suspension, respondent shall observe the provisions of the directives for dentists whose licenses have been suspended or revoked, a copy of which is attached here and made a part of this order.

2. Random and unannounced audits of respondent's patients' records and billing records may be conducted by the Board's

designees at the Board's discretion and at the expense of the respondent for the entire probationary period. On demand made, respondent shall immediately make available all records necessary to conduct the audit as determined by the Board or its designees. The cost of each such audit shall be based on the standard hourly rate for the Board's investigators prevailing at the time of the audit and shall be due and payable within thirty (30) days of the respondent's receipt of a statement of such costs from the Executive Director of the Board setting forth the hourly rate and the total hours for the audit.


3. Respondent shall cease and desist from any and all misrepresentation, fraud, deception or any other unlawful act in connection with the submission of insurance claims on behalf of patients in any manner whatsoever including, but not limited to, treatment dates which do not reflect accurately the date when the service or procedure was actually completed, description of dental services or procedures which do not accurately reflect the actual work completed, discrepancies between the fees charged to the patient and the fee set forth in the claim form, and failure to maintain records for patients for whom insurance claims are made.

4. Respondent shall pay a civil penalty in the amount of \$12,500.00 pursuant to N.J.S.A. 45:1-22. Payment shall be made by certified check or money order, payable to the State of New Jersey and forwarded to Agnes Clarke, Executive Director, Board of Dentistry, not later than 30 days following entry of this order.

5. Respondent shall perform 150 hours of community service, which service shall be pre-approved by the Board.

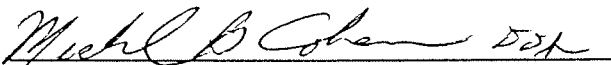
4. In the event subsequent complaints are filed against him, respondent may be subject to an additional heightened penalty pursuant to N.J.S.A. 45:1-22.

STATE BOARD OF DENTISTRY



ABRAHAM SAMANSKY, D.D.S.
PRESIDENT

I have read and understand
this Order and agree to
be bound by its terms. I give my
consent to enter this Order



MICHAEL B. COHEN, D.M.D.

**DIRECTIVE REGARDING FUTURE ACTIVITIES
OF BOARD LICENSEE WHO HAS BEEN SUSPENDED/
REVOKED AND USE OF THE PROFESSIONAL PREMISES**

A practitioner whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the Board shall conduct him/herself as follows.

- 1) Promptly deliver to the Board the original license and current biennial registration and, if authorized to prescribe drugs, the current State and Federal Controlled Dangerous Substances registrations.
- 2) Desist and refrain from the practice of dentistry in any form either as principal or employee of another licensee.
- 3) Inform each patient at the time of any inquiry of the suspended or revoked or retired status of the licensee. When a new licensee is selected by a patient, the disciplined practitioner shall promptly make available the original or a complete copy of the existing patient record to the new licensee, or to the patient if no new licensee is selected. Such delivery of record does not waive any right of the disciplined practitioner to claim compensation earned for prior services lawfully rendered.
- 4) Not occupy, share or use office space in which another licensee practices dentistry.
- 5) Desist and refrain from furnishing professional dental services, giving an opinion as to the practice of dentistry or its application, or any advice with relation thereto; and from holding him/herself out to the public as being entitled to practice dentistry or in any way assuming to be a practicing professional or assuming, using or advertising in relation thereto in any other language or in such a manner as to convey to the public the impression that such person is a legal practitioner or authorized to practice dentistry. This prohibition includes refraining during the period of suspension or revocation from placement of any advertisement or professional listing in any advertising medium suggesting eligibility for practice or good standing.
- 6) Cease to use any stationery whereon such person's name appears as a dentist in practice. If the practitioner was formerly authorized to issue written prescriptions for medication or treatment, such prescription pads shall be destroyed if the license was revoked. If the license was suspended, the prescriptions shall be destroyed or shall be stored in a secure location to prevent theft or any use whatsoever until issuance of a Board Order authorizing use by the practitioner. Similarly, medications possessed for office use shall be lawfully disposed

of, transferred or safeguarded.

7) Not share in any fee for dental services performed by any other licensee following the suspension, revocation or surrender of license, but the practitioner may be compensated for the reasonable value of the services lawfully rendered and disbursements incurred on the patient's behalf prior to the effective date of the suspension, revocation or surrender.

8) Use of the professional premises. The disciplined licensee may allow another licensee to use the office premises formerly occupied by the disciplined licensee on the following conditions only:

(a) The new licensee shall conduct the practice in every respect as his/her own practice including billings, claim forms, insurance provider numbers, telephone numbers, etc.

(b) The disciplined licensee may accept no portion of the fees for professional services rendered by the new licensee, whether by percentage of revenue, per capita patient, or by any other device or design, however denominated. The disciplined licensee may, however, contract for or accept payment from the new licensee for rent (not exceeding fair market value) of the premises and either dispose of or store the dental material and equipment, but in no event shall the disciplined licensee, on the basis of a lease or any other agreement for compensation place in the possession of any operator, assistant or other agent such dental material and equipment, except by a chattel mortgage.

(c) No use of name of disciplined licensee or personally owned office name or tax- or provider identification number.

1. Where the disciplined licensee was using an individual IRS number or where the licensee was the sole member of an incorporated professional association or a corporation, the disciplined licensee may contract to rent the office premises to a new practitioner. The new practitioner must use his/her own name and own provider number on all bills and insurance claim forms. Neither the name nor the number of the disciplined licensee may be used. When the license of a sole practitioner has been revoked, a trade name must be cancelled and a professional service corporation must be dissolved.

2. Where the disciplined licensee is a

member of a professional group which uses a group-type name such as the ABC Dental Group, the disciplined licensee must arrange to have his/her name deleted, covered up or otherwise obliterated on all office signs, advertisements published by the group after the effective date of the Board disciplinary Order and on all printed billings and stationery. The other group members may continue to function under the incorporated or trade name, minus the name of the disciplined licensee, and may continue to use its corporate or professional identification number.

(9) Report promptly to the Board compliance with each directive requiring moneys to be reimbursed to patients or to other persons or third party payors or to any court, and regarding supervisory reports or other special conditions of the Order.

(10) A practitioner whose license is surrendered, revoked or actively suspended for one year or more shall conduct him/herself as follows:

1) Promptly require the publishers of any professional directory and any other professional list in which such licensee's name is known by the disciplined licensee to appear, to remove any listing indicating that the practitioner is a licensee of the Board in good standing.

2) Promptly require any and all telephone companies to remove the practitioner's listing in any telephone directory indicating that such practitioner is a practicing professional.

(11) A practitioner whose practice privileges are affected by a Board disciplinary Order shall, within 90 days after the effective date of the Board Order, file with the Executive Director of the Board a detailed affidavit specifying by correlatively lettered and numbered paragraphs how such person has fully complied with this directive. The affidavit shall also set forth the residence or other address and telephone number to which communications may be directed to such person. Any change in the residence, address or telephone number shall be promptly reported to the Executive Director.